

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY
COURT NO. 13**

JOYCE WAPNIAREK
Plaintiff Below,
Appellant

VS

LAMBERT ROLLINS
VERONICA JORDAN
Defendant Below,
Appellee

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C.A. No. JP13-22-004171

TRIAL DE NOVO

Submitted: March 31, 2023

Decided: March 31, 2023

APPEARANCES:

Joyce Wapniarek, Plaintiff, appeared represented by attorney William Brady, Esquire
Lambert Rollins, Defendant, appeared represented by attorney James Vadakin, Esquire
Veronica Jordan, Defendant, failed to appear

Sean McCormick, Deputy Chief Magistrate
Peter Burcat, Justice of the Peace
Susan Ufberg, Justice of the Peace

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
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CIVIL ACTION NO: JP13-22-004171

JOYCE WAPNIAREK VS LAMBERT ROLLINS

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

Procedural Background

Plaintiff/Appellant JOYCE WAPNIAREK, by and through her counsel of record, William P. Brady, Esquire, filed Civil Action No. JP13-22-004171 on April 11, 2022, in Justice of the Peace Court 13. Plaintiff/Appellant alleged Defendants/Appellees LAMBERT ROLLINS and VERONICA JORDAN had not paid rent for a rental property they occupied. Subsequently, the Parties entered into a Stipulated Agreement. Subsequently, the Agreement was not able to be consummated due to a denial of a *Delaware Housing Assistance Program* ("DEHAP") application. As per the Stipulated Agreement, if not completed, Plaintiff/Appellant reserved her right to have the matter proceed with a *Trial de Novo*. On August 16, 2022, James Vadakin, Esquire, entered his appearance on behalf of Defendants/Appellees. On October 13, 2022, Mr. Brady filed a Request for *Trial de Novo*. The Request for *Trial de Novo* was approved. The *Trial de Novo* was scheduled for February 27, 2023. On February 27, 2023, a three-judge panel consisting of Deputy Chief Magistrate Sean McCormick, Justice of the Peace Susan Ufberg, and Justice of the Peace Peter Burcat convened for the *Trial de Novo*. Plaintiff/Appellant JOYCE WAPNIAREK appeared with her counsel Mr. Brady via *Zoom*. Defendant/Appellee LAMBERT ROLLINS appeared with his counsel Mr. Vadakin via *Zoom*. Defendant/Appellee VERONICA JORDAN failed to appear.

Facts

Prior to the swearing of witnesses, the Panel engaged in a colloquy with the Parties. The Parties were in agreement the Stipulated Agreement was reliant on Defendants/Appellees vacating the rental property and payment of an agreed upon amount of \$13,950.00 by DEHAP. Defendants/Appellees did in fact vacate the rental property. But DEHAP denied Defendants/Appellees' application for assistance, and Defendants/Appellees did not make any payments towards the agreed upon \$13,950.00. Since the matter was not resolved as per the Stipulated Agreement, Plaintiff/Appellant moved forward with a *Trial de Novo* as specified in the Stipulated Agreement. Judges Ufberg and Burcat mentioned they had each been involved in some decisions regarding the Parties to the *Trial de Novo* in a similar case between the Parties filed under JP13-22-000075. Both counsel agreed there would not be a conflict with having Judges Ufberg and Burcat continue as Panel members for the present *Trial de Novo*.

Findings

It was undisputed Defendants/Appellees were the tenants of Plaintiff/Appellant and had an outstanding amount due for unpaid rent and utility bills. It is further undisputed the Parties agreed the total amount due and owing was \$13,950.00.

Mr. Vadakin made a Motion to Dismiss arguing the Stipulated Agreement was not breached by his clients. He stated Defendants/Appellees had in fact vacated the rental property and had applied for DEHAP assistance as per the Stipulated Agreement. Mr. Brady agreed Defendants/Appellees had vacated, but as the DEHAP Application was denied, Defendants/Appellees were still obligated to pay the \$13,950.00. As possession

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was no longer at issue, this matter would need to proceed as a debt only action. Defendant/Appellees' Motion to Dismiss was denied and the *Trial de Novo* proceeded as a Debt only matter.

Mr. Vadakin requested the Panel to consider the counterclaim for rent abatement that had previously been filed under case number JP13-22-000075. The Panel reviewed that case and it was noted on July 29, 2022, Judge Burcat dismissed JP13-22-000075 with prejudice. The Panel further took Judicial Notice that neither party filed an appeal of the dismissal with prejudice. As the counterclaim that sought rent abatement due to a claim of water being improperly shut off was dismissed with prejudice, the Panel held any similar claim sought as part of the present *Trial de Novo* would be barred under the principle of *Res Judicata*.

It has been noted the Parties agreed the Stipulated Agreement set forth the total amount due and owing by Defendants/Appellees to Plaintiff/Appellant was \$13,950.00. While the Parties were hopeful DEHAP would assist Defendants/Appellees with payment of the \$13,950.00, that ultimately did not come to fruition as DEHAP denied the application for assistance. DEHAP's denial did not change the amount the Parties agreed was due and owing. Neither Mr. Brady nor Mr. Vadakin set forth any argument why the amount of \$13,950.00 was any different on the day of the *Trial de Novo*. The Panel accepts that amount for purposes of the *Trial de Novo*.

After considering the arguments presented by the Parties' respective counsel, the Panel finds by a preponderance of the evidence that:

1. The Parties agreed Defendants/Appellees are indebted to Plaintiff/Appellant in the amount of \$13,950.00;
2. There was no appeal from the Judgment of a Dismissal with Prejudice of Defendants/Appellees' counterclaim for rent abatement in JP13-22-000075 and therefore, any similar claim for rent abatement in the present case is barred;
3. Possession is not at issue as Defendants/Appellees have vacated the rental property that had been at issue.

Order

Based upon all of the foregoing reasons, the Panel enters Judgment against Defendant/Appellee LAMBERT ROLLINS and awards \$13,950.00 to Plaintiff/Appellant JOYCE WAPNIAREK.

Defendant/Appellee VERONICA JORDAN failed to appear for the *Trial de Novo*, and therefore, Default Judgment is entered against Defendant/Appellee VERONICA JORDAN and awards \$13,950.00 to Plaintiff/Appellant JOYCE WAPNIAREK.

IT IS SO ORDERED 31st day of March, 2023

/s/ Sean McCormick _____ (SEAL)
SEAN MCCORMICK
DEPUTY CHIEF MAGISTRATE
ON BEHALF OF THREE JUDGE PANEL

Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).